



Practitioner's Docket No. _____

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: RICHARD J. PETROCY

Application No.: 08/807,567

Group No.: 2786

Filed: 02/28

Examiner: WILLIAM GRANT
RAMESH PHILZ

For:

Box DAC

Assistant Commissioner for Patents
Washington, D.C. 20231

ATTENTION: Petition Information

Crystal Park One, Suite 520

(M.P.E.P. § 1002.02(b), 6th ed., rev. 3)

PETITION FOR REVIVAL OF AN APPLICATION
FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 C.F.R. § 1.137(a)

NOTE: "In a design application, a utility application filed before June 8, 1995, or a plant application filed before June 8, 1995, any petition to revive pursuant to this section must be accompanied by a terminal disclaimer and fee as set forth in § 1.321 dedicating to the public a terminal part of the term of any patent granted thereon equivalent to the period of abandonment of the application. Any terminal disclaimer pursuant to this paragraph must also apply to any patent granted on any continuing application that contains a specific reference under 35 U.S.C. 120, 121, or 365(c) to the application for which revival is sought. The provisions of this paragraph do not apply to lapsed patents." 37 C.F.R. § 1.137(c).

1. Applicant petitions for the revival of the above-identified application.

NOTE: Extensions under 37 C.F.R. § 1.136 are available only if asked for "prior to or with the response." Accordingly, if the question of abandonment arises when the provisions of § 1.136 can no longer be used then the application is abandoned when the unextended time for response has expired. See Notice of July 9, 1985 (1056 O.G. 60-61). Thus: "An application which is abandoned for failure to respond within a set period with no extension fee having been paid, would not require the payment of extension fees as a condition for revival." M.P.E.P. § 711.03(c), 6th ed., rev. 2.

2. Nature of abandonment:

(check appropriate box and complete)

In an office communication from the PTO dated 12/22/98, the undersigned has noted that the above-identified application is being forwarded to the Abandoned Files because applicant's response to the Official Action mailed _____ has not been received within the statutory period or any extension requested therefor.

CERTIFICATE OF MAILING/TRANSMISSION (37 C.F.R. § 1.8(a))

I hereby certify that this correspondence is, on the date shown below, being:

MAILING

deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231.

EX PRESS MAIL EA8861030449 US

Date: 1/21/99

FACSIMILE

transmitted by facsimile to the Patent and Trademark Office.

Signature


Richard Joel Petrocy

(type or print name of person certifying)

The undersigned has reviewed his records and noted that the response to the Official Action mailed _____ was not timely filed within the statutory period or any extension requested therefor.

3. Response filed:

NOTE: The response does not require a request and fee for extension of time as a condition of revival. Notice of July 9, 1985 (1056 O.G. 60-61).

The proposed response to the Official Action mailed _____

has been filed on _____
 is enclosed herewith.

4. Showings from the relevant parties as to the causes of the unavoidable delays are filed herewith; said showing establishes that the entire delay in filing the required reply from the due date for the reply until the filing of this petition was unavoidable. 37 C.F.R. § 1.137(a)(3).

5. It will be seen from the attached showings that the processing procedures have been carefully reviewed and that steps have been taken to avoid repetition of the events which took place in this case so that a similar error will not be made in the future.

6. Terminal disclaimer 37 C.F.R. § 1.137(c):

application filed before June 8, 1995
or design application

Abandonment took place on the following date _____ and:

A terminal disclaimer equivalent to the period of abandonment of the application until the date of this petition is attached.

7. Status of applicant:

This application is on behalf of

small business entity—fee \$55.00
 statement already filed on _____
 statement attached.
 other than a small business entity—fee \$110.00

NOTE: The fee is set in 37 C.F.R. § 1.17(l).

8. Fee payment:

Charge the petition fee of _____ to Account _____ and for any additional fee required. A duplicate of this petition is attached.

A check in the sum of \$ 55 is attached.

Charge Account _____ for any additional fee required.

(complete the following, if applicable)

Because this petition is more than 3 months after the date the Office first notified the applicant that the application is abandoned, applicant additionally submits a showing as to how the delay between the date the applicant was first notified that the application is abandoned and the filing of this petition under 37 C.F.R. § 1.134(b) was unintentional. 62 Fed. Reg. 53,131, 53,159 (Oct. 10, 1997).

Because this petition is more than 1 year after the date of abandonment of the application, applicant additionally submits further information as to when applicant (or applicant's representative) first became aware of the abandonment of the application, and a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant (or applicant's representative). 62 Fed. Reg. 53,131, 53,159 (Oct. 10, 1997).



SIGNATURE OF PRACTITIONER

Richard Joel Petrowcy

(type or print name of practitioner)

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*(Petition to Revive Application Abandoned Unavoidably [11-4]—page 3 of 3)
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